



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2011-0084-201167(a); FRL-9628-2]

Approval and Promulgation of Implementation Plans; Alabama, Georgia, and Tennessee: Chattanooga; Particulate Matter 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the fine particulate matter (PM_{2.5}) 2002 base year emissions inventory portion of the State Implementation Plan (SIP) revisions submitted by the States of Alabama on July 31, 2009, Georgia on October 27, 2009, and Tennessee on October 15, 2009. The emissions inventory is part of the tri-state Chattanooga, Alabama-Georgia-Tennessee, (hereafter referred to as “the Chattanooga Area” or “Area”), PM_{2.5} attainment demonstrations that were submitted for the 1997 annual PM_{2.5} National Ambient Air Quality Standards (NAAQS). This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective [Insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2011-

0084, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: benjamin.lynorae@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2011-0084," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2011-0084. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed

in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic

mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

- I. Background**
- II. Analysis of State Submittals**
- III. Final Action**
- IV. Statutory and Executive Order Reviews**

I. Background

On July 18, 1997 (62 FR 36852), EPA established an annual PM_{2.5} NAAQS at 15.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) based on a 3-year average of annual mean PM_{2.5} concentrations. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 annual PM_{2.5} NAAQS based upon air quality monitoring data for calendar years 2001–2003. These designations became effective on April 5, 2005. The Chattanooga Area (which is comprised of a portion of Jackson County in Alabama, Catoosa and Walker Counties in Georgia and Hamilton County in Tennessee) was designated nonattainment for the 1997 annual PM_{2.5} NAAQS. *See* 40 CFR 81.311.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP under title 1, part D of the CAA. This SIP must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable but no later than the date required by the CAA. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP

to EPA. For the 1997 PM_{2.5} NAAQS, these SIPs were due April 5, 2008. *See* 40 CFR 51.1002(a).

On July 31, 2009, October 27, 2009, and October 15, 2009, Alabama, Georgia and Tennessee (respectively) submitted attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 annual PM_{2.5} NAAQS in the Chattanooga Area. On May 31, 2011 (76 FR 31239), EPA determined that the Chattanooga Area attained the 1997 annual average PM_{2.5} NAAQS. The determination of attainment was based upon complete, quality-assured and certified ambient air monitoring data for the 2007–2009 period, showing that the Area had monitored attainment of the 1997 annual PM_{2.5} NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 annual PM_{2.5} NAAQS. *See* 40 CFR 51.1004(c).

On June 29, 2011, Georgia withdrew¹ its Chattanooga attainment plan as allowed by 40 CFR 51.1004(c); however, such withdrawal does not suspend the emissions inventory requirement found in CAA section 172(c)(3). Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. EPA is

¹ Per phone conversation between Lynorae Benjamin (EPA Region 4) and Jimmy Johnson (Georgia Department of Natural Resources) on October 17, 2011, the withdrawal notice did not include the emissions inventory portion of the submittal.

now approving the emissions inventory portion of the SIP revisions submitted on July 31, 2009, October 27, 2009 and October 15, 2009, by Alabama, Georgia and Tennessee (respectively), as required by section 172(c)(3). .

II. Analysis of State Submittals

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. Alabama, Georgia and Tennessee selected 2002 as base year for their emissions inventory per 40 CFR 51.1008(b). Emissions contained in the Chattanooga emissions inventory cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. A detailed discussion of the emissions inventory development can be found in Section 4 of the Alabama submittal, Appendix H of the Georgia submittal, and Appendix 4 of the Tennessee submittal. A summary is also provided below.

The tables below provide a summary of the annual 2002 emissions of nitrogen oxides (NO_x), sulfur dioxide (SO₂) and PM_{2.5}.

Table 1. 2002 Annual Emissions for the Chattanooga Area (tons)

County	Point Sources		
	NO_x	SO₂	PM_{2.5}
Jackson, AL (partial)	26,337	44,080	933
Catoosa, GA	0	0	0

Walker, GA	45.7	203.1	1.7
Hamilton, TN	2,856	1,721	567
County	Non-Road Sources		
	NO_x	SO₂	PM_{2.5}
Jackson, AL (partial)	14	5	1
Catoosa, GA	671.4	50.8	37.4
Walker, GA	269.1	21	19.2
Hamilton, TN	6,428	539	292
County	Area Sources		
	NO_x	SO₂	PM_{2.5}
Jackson, AL (partial)	3	17	12
Catoosa, GA	165.4	272.8	688.7
Walker, GA	417.4	763.9	1,040.6
Hamilton, TN	639	507	1,000
County	Mobile Sources		
	NO_x	SO₂	PM_{2.5}
Jackson, AL (partial)	7	6	0
Catoosa, GA	2,377.1	92.1	37.2
Walker, GA	1,698.7	71.1	29.3
Hamilton, TN	11,610	461	183

The 172(c)(3) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions

inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, nonroad mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also are used in the attainment demonstration modeling inventory. Such was the case in the development of the 2002 emissions inventory that was submitted in each State's attainment SIPs for this Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the States to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed for the different emissions source categories resulting from revisions and updates to the data. This resulted in the use of version G2 of the updated data to represent the point sources' emissions. Data from many databases, studies and models (e.g., Vehicle Miles Traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc...) resulted in the inventory submitted in these SIPs. The data were developed according to current EPA emissions inventory guidance "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations" (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees that the process used to develop these inventories was adequate to meet the requirements of CAA 172(c)(3) and the implementing regulations.

EPA has reviewed the emissions inventories from Alabama, Georgia and Tennessee, and finds that they are adequate for the purposes of meeting section 172(c)(3) emissions inventory requirement for the 1997 annual PM_{2.5} standard. The emissions inventories are

approvable because the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of the SIP revisions submitted by: the State of Alabama on July 31, 2009, the State of Georgia on October 27, 2009 and the State of Tennessee on October 15, 2009. This action is being taken pursuant to section 110 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the

finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

Dated: January 27, 2012

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

2. Section 52.50(e) is amended by adding a new entry for “Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory” at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Alabama Non-Regulatory Provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
**	**	*	*	*
Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory	Jackson County	7/31/09	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	

Subpart L—Georgia

2. Section 52.570(e), is amended by adding a new entry 29 to read as follows:

§ 52.570 Identification of plan.

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(e) * * *

EPA-Approved Georgia non-regulatory provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
**	**	**	*
29. Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory	Catoosa and Walker Counties	10/27/09	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]

Subpart RR—Tennessee

2. Section 52.2220(e) is amended by adding a new entry for “Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory” at the end of the table to read as follows:

§ 52.2220 Identification of plan.

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(e) * * *

EPA-Approved Tennessee Non-Regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
**	**	**	*	*
Chattanooga; Fine Particulate Matter 2002 Base Year Emissions Inventory	Hamilton County	10/15/09	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	

[FR Doc. 2012-2731 Filed 02/07/2012 at 8:45 am; Publication Date: 02/08/2012]